

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Joint Application of Southern California Edison Company (U 338-E) and San Diego Gas & Electric Company (U 902-E) to Find the 2014 SONGS Units 2 and 3 Decommissioning Cost Estimate Reasonable and Address Other Related Decommissioning Issues.

Application 14-12-007
(Filed December 10, 2014)

**REPLY COMMENTS OF THE UTILITY CONSUMERS' ACTION NETWORK (UCAN)
ON THE PROPOSED DECISION OF ADMINISTRATIVE LAW JUDGE MARIBETH
BUSHEY APPROVING THE DECOMMISSIONING COST ESTIMATE**

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Donald Kelly, Esq
Executive Director
Utility Consumers' Action Network
3405 Kenyon St, Suite 401
San Diego, CA 92110
(619) 696-6966
dkelly@ucan.org

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I. INTRODUCTION

In these reply comments UCAN will be responding to the opening comments of SDG&E, Alliance for Nuclear Responsibility (A4NR), and TURN. Specifically, UCAN disagrees with the proposal of SDG&E to continue collecting ratepayer funds for the SONGS decommissioning to avoid rate volatility pending SDG&E's GRC Phase 1 decision.¹ UCAN also disagrees with A4NR's request to continue collecting ratepayer funds should the DCE not accurately reflect the cost of storing the spent nuclear fuel pending transfer of the fuel to the Department of Energy (DOE). Finally, UCAN agrees with TURN that the Commission decision should explicitly state that SCE and SDG&E will be held responsible for the hiring, oversight, and discretionary operational decisions of a decommissioning general contractor that lead to any otherwise avoidable ratepayer costs.

¹ A.14-11-003

II. UCAN DISAGREES WITH SDG&E’S ATTEMPT TO CONTINUE COLLECTING THE SONGS DECOMMISSIONING FEE PENDING A DECISION IN SDG&E’S GRC PHASE 1

In opening comments SDG&E asks that, even though SDG&E seeks \$0.0 future ratepayer contributions to fund the SONGS nuclear decommissioning trusts, that they still be allowed to collect the presently set decommission fee to avoid any potential rate volatility due to SDG&E’s pending GRC Phase 1 decision. Even though this issue was not considered in testimony, nor did SDG&E raise this issue in briefs, SDG&E now comes forward with this proposal, which does not cite to a single piece of testimony, record evidence, or transcript quotation for support.

SDG&E’s proposal, first advanced in opening PD comments, is as follows:

“SDG&E is currently awaiting a proposed decision in Phase 1 of its 2016 General Rate Case (“GRC”) (A.14-11-003) and a final decision in this case is not expected until the second quarter of this year. SDG&E has concerns related to rate volatility associated with implementing two separate revenue requirement changes in a short period of time. Customers would first experience a rate decrease – resulting from the reduction to the decommissioning cost collections from \$8.2 million to \$0.0 in this proceeding and the refund to customers – to be followed shortly by an anticipated rate increase associated with the approval of a decision in SDG&E’s Phase 1 GRC. Therefore, SDG&E requests approval to implement the decrease in the revenue requirement from the reduction of contributions to the SONGS Units 2 and 3 decommissioning trusts and the refund to customers at the same time (and as an offset to) the expected increase in the revenue requirement from SDG&E’s GRC decision in order to minimize the potential volatility.²

The Commission should not consider SDG&E’s 12th hour request to continue collecting nuclear decommissioning funds when these funds are not needed and where there is no evidentiary support for the proposal. In addition, the parties have not been given adequate opportunity to vet the proposal, and the need for and implications of the proposal remain unexamined.

SDG&E’s proposal would overcharge present customers for a period of time in exchange for moderating rate increases for future customers later on. Customer impacts of SDG&E’s proposal have not been examined, and while the nuclear decommissioning fee is relatively small, we are concerned that this pre-charging of customers may still present a hardship to customers who are

² SDG&E opening comments at page 3

of limited means and already on the financial edge. In addition, there is an equity concern whenever costs are shifted across time periods in that some of the customers paying the overcharges are likely to move out of SDG&E's service area or close their businesses prior to reaping the benefits of the reduced increases. UCAN therefore believes that pre-charging customers should be considered only under very limited circumstances such as when the absence of such action would cause notable rate volatility and should only be allowed for very limited time periods. Given that a date for SDG&E's GRC decision is uncertain and that there is no evidence in the record showing that any electric rate increase from a GRC decision would lead to rate volatility, UCAN asks that SDG&E's request be denied.

III. INTERGENERATIONAL EQUITY REQUIRES THAT NO ADDITIONAL RATEPAYER FUNDS BE COLLECTED TO FUND WASTE STORAGE.

In their opening PD comments A4NR notes:

"The PD's reliance on the 2024 date is the underpinning of its authorization to SCE and SDG&E to reduce decommissioning trust contributions from current customers to zero.

. . . Should changes to the utilities' current assumption about the duration of onsite spent fuel storage at SONGS prompt a need for contributions from future ratepayers, the Commission's policies to promote inter-generational equity will be eviscerated."³

Even though UCAN believes A4NR makes a strong case in their opening comments that DOE may not collect spent nuclear fuel by 2024, as is assumed in the PD, we disagree that further ratepayer funding is needed to prevent an intergenerational shift from future ratepayers to present ratepayers. Given the lack of certainty on a number of decommissioning cost issues, it is indeed quite possible that further decommissioning funding from present ratepayers would instead create an intergenerational shift, by over-collecting from present ratepayers and triggering a refund of the overage to future customers who were never charged decommissioning fees. At the very least, we do not have enough information at this point to conclude that the trust funds would not be fully funded to complete the decommissioning even with a delay in spent fuel collection.

³ Opening Comments of A4NR at page 1

Evidence to the contrary comes from TURN's testimony, which notes that SCE and SDG&E customers have contributed more to the SONGS trust funds than have been collected for any other nuclear plant site in the country and that the SONGS Decommissioning Cost Estimate (DCE) is 2.7 times higher than the average DCE of four similar plants.⁴ If TURN's testimony is correct that the decommissioning trust funds are likely overfunded, any under-collection of funds due to an underestimated cost for waste storage in the DCE may be more than offset by the excessive amount of funds already collected for the SONGS decommissioning.

In addition, potential U.S. Navy modifications to the restoration standards for the SONGS site and potential California State Lands Commission modifications to the decommissioning requirements for the offshore conduits could reduce decommissioning costs to well below the DCE. Moreover, proceeds from pending litigation with DOE over delays in spent fuel collection may leave SCE customers whole regardless of when the spent fuel is ultimately collected.

Given the potential that the decommissioning funds are already overcollected, that there will be possibly significant cost reductions, and that there may be DOE payments that will keep ratepayers whole in the face of spent fuel collection delays, even with the uncertainty over the spent fuel collection date, it is still reasonable for the Commission to adopt the DCE and approve a decommissioning fee of \$0.0 based on all the information known at this point. Given that an over-collection of the decommissioning fee would lead to as much of an intergenerational inequity as an under-collection, continued fee collection could very well create an intergenerational inequity, rather than solve one.

IV. TURN'S COMMENTS ON SCE'S PROPOSAL TO USE A DECOMMISSIONING GENERAL CONTRACTOR DESERVES SUPPORT

In the utilities' application they propose to hire a Decommissioning General Contractor (DGC), to manage the decommissioning of the SONGS facility. Even though the application raises the issue of hiring a DGC and several parties offered testimony on the subject (SCE, TURN and UCAN), the PD is silent on the utilities' oversight role should they choose to hire a

⁴ TURN's opening brief at page 33 citing exhibit 31, page 23, Table V-1

DGC and contains only general language about how the utilities' requests for cost reimbursement will be reviewed for reasonableness and prudence. In TURN's opening PD comments, TURN asks that the Commission expressly find that SCE would be responsible for any decommissioning cost increase that arises from issues related to the DGC.⁵ Like TURN, UCAN urges the Commission to make it clear that SCE, SDG&E and the other owners of the SONGS facility remain responsible for supervising their agents and that if the utilities fail to put into place appropriate contractual safeguards or to adequately supervise the contractor's performance then ratepayers will not be responsible for the costs that result.

V. CONCLUSION

For the foregoing reasons UCAN requests that the commission modify the PD as per the recommendations set forth in both our opening and reply comments.

Dated: March 21, 2016

Respectfully submitted,

/s/ Donald Kelly

Donald Kelly, Executive Director
Utility Consumers' Action Network
3405 Kenyon Street, Suite 401
San Diego, CA 92110
don@ucan.org
(619) 696-6966

⁵ "TURN's prepared testimony and briefs expressed concerns about SCE's justification for a DGC and urged the Commission to expressly find that SCE will be fully responsible for any increases in overall decommissioning cost due to the performance of the DGC, termination of the DGC contract and a return to utility management, or disputes between SCE and the DGC over contractual obligations. Unplanned expenditures relating to poor performance, litigation or contract disputes should be fully assigned to utility shareholders rather than being collected from the ratepayer funded decommissioning trust funds." TURN opening PD comments at pages 3-4